

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Civil Action Number: 6-20-cv-3120-TMC

Trinity Electric and Controls,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Fairway Ford, Inc.	)	
	)	
Defendant.	)	
	)	
	)	

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**PLAINTIFF’S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Plaintiff Trinity Electric and Controls (“Trinity”) moves for leave to amend the Complaint to add as co-plaintiff John M. Kennedy, President and CEO for Trinity. A copy of the proposed amended complaint is attached as Ex. A.

Pursuant to Rule 15(a)(2), a plaintiff may amend his complaint with the opposing party’s written consent or leave of court. In an agreement reached between the parties, Defendant agreed to consent to Plaintiff amending the Complaint to add Mr. Kennedy as a plaintiff and Plaintiff agreed to allow Defendant an extension of time to file its responsive pleading. (See Docket #6, Joint Motion for Extension of Time). Notwithstanding, given that the request is being made prior to the expiration of the deadline to amend the complaint and join parties, leave to amend should be freely granted. *See* Rule 15(a)(2).

Further, this action is a breach of contract action involving the purchase of two vehicles from the Defendant. One of the vehicles was purchased in the name of Trinity Electric and

controls while the other was purchased in the name of John Michael Kennedy. (See Ex. B – Retail Sales Agreement dated August 30, 2019). If only Trinity is named as the Plaintiff, the action is open to a possible dismissal pursuant to Rules 12(b)(6) and (7) or Rule 12(e), Fed. R. Civ. P. It would be just for all parties to allow Plaintiff to amend the Complaint because Plaintiff would still be able to pursue its claims and Defendant would be spared the expense of preparing and arguing a Rule 12 motion. Accordingly, the Court should grant Plaintiff leave to amend the complaint.

### **CERTIFICATE OF GOOD FAITH CONFERENCE**

Plaintiff's counsel certifies that she met and conferred with Defendant's counsel regarding the relief requested in this motion, and that Defendant agrees to the relief requested.

Dated: September 17, 2020

/s/ V. Elizabeth Wright  
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